

## United States District Court

SEP - 1 2016

SOUTHERN

DISTRICT OF

TEXAS

McALLEN DIVISION

David J. Bradley, Clerk

UNITED STATES OF AMERICA

V.

## CRIMINAL COMPLAINT

Rigoberto Mercado *PRINCIPAL* United States  
YOB: 1985

Anthony Edward Barrientes *CO-PRINCIPAL* United States  
YOB: 1988

Ruben Eric Gonzalez *CO-PRINCIPAL* United States  
YOB: 1977

Case Number:

M-16-1629 -M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 30, 2016 in Starr County, in the Southern District of Texas defendants(s) did,  
(Track Statutory Language of Offense)

knowing or in reckless disregard of the fact that Humberto De Jesus Ascencio-Martinez and Walter Osvaldo Sandoval-De Leon, both citizens and nationals of the United Mexican States, and Mervin Jacinto-Calderon, a citizen and national of Guatemala, along with five (5) other undocumented aliens, for a total of eight (8), who had entered the United States in violation of law, did knowingly transport, or move or attempt to transport said aliens in furtherance of such violation of law within the United States, that is, from a location in Roma, Texas to the point of arrest in Garceno, Texas.

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(ii) FELONY

I further state that I am a(n) U.S. Senior Border Patrol Agent and that this complaint is based on the following facts:

On August 30, 2016, Border Patrol Agents R. Martinez, was conducting surveillance at the Burger King restaurant in Roma, Texas and noticed a male subject, later identified as Rigoberto MERCADO, walking in and out of the restaurant. MERCADO made three trips each time going into a grey Dodge Nitro. After his third trip into the restaurant, MERCADO loaded into the Nitro and drove east on Highway 83. As MERCADO drove away, multiple subjects pop up in the front and rear seat.

SEE ATTACHED

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Approved by: Linda Revenez, AUSA  
9/1/16

*fc*  
Signature of Complainant

Julio C. Ibarra Senior Patrol Agent  
Printed Name of Complainant

Sworn to before me and subscribed in my presence,

September 1, 2016  
Date

*4-15/16*  
at

McAllen, Texas  
City and State

Peter E. Ormsby, U. S. Magistrate Judge  
Name and Title of Judicial Officer

*Peter E. Ormsby*  
Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN, TEXAS**

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**RE:      Rigoberto Mercado  
         Anthony Edward Barrientes  
         Ruben Eric Gonzalez**

**CONTINUATION:**

The Dodge Nitro exited the Burger King following a Lexus IS 250 and Agent Martinez relayed to surrounding agent that the Nitro and Lexus were travelling in tandem. The vehicles continued to drive in tandem until reaching FM 3167 where two vehicles turned into a convenient store and turned back westbound on Highway 83. Texas Department of Public Safety (DPS) Troopers conducted a traffic stop on the Nitro at the El Tigre Convenient Store in Garceno, Texas for passengers not wearing their safety belts. Agents determined Rigoberto MERCADO was a United States Citizen and the five (5) passengers were Guatemalan nationals illegally in the United States. MERCADO was read his Miranda Rights, understood his rights and was willing to provide a statement. MERCADO told agents he was following a white Lexus driven by his brother-in-law Anthony.

As the Nitro was stopped in front of the El Tigre Store the white Lexus drove into and parked in front of the store. DPS approached the Lexus which was being driven by Ruben Eric GONZALEZ and Anthony Edward BARRIENTES being the passenger. Ruben Eric GONZALEZ told DPS trooper they were traveling in tandem with the Nitro because the driver was Anthony Edward BARRIENTES' brother-in-law, Rigoberto MERCADO. GONZALEZ stated he contacted BARRIENTES for work because he was hurting for cash. BARRIENTES then arranged for them to come down to Roma, Texas for which GONZALEZ thought was to buy cocaine and take it back to San Antonio, Texas. GONZALEZ admitted that his involvement was supposed to be for cocaine and not aliens. GONZALEZ stated he had gone to the Dollar General first to pick up BARRIENTES but he was not there. GONZALEZ then went to the Burger King in Roma, Texas and then was called by BARRIENTES to return to the Dollar General to pick him up. GONZALEZ stated he thought they were going to pick up the cocaine after he picked up BARRIENTES.

While agent and troopers were securing the scene, Agent Hamilton was then approached by DPS Trooper Hernandez regarding a tan Toyota Camry parked at the gas pump with three passengers in the back seat which was parked at the pump the entire time of the arrest and interview with no driver. Agent Hamilton observed three subjects inside the tan Toyota Camry which appeared that it was not running or turned on. Agent Hamilton observed that the three subjects were sitting motionless and avoiding any contact with uniformed agents or customers entering or leaving El Tigre Convenience Store. Agent Hamilton then approached the vehicle and determined the three subjects were all undocumented and illegally present in the United States. The registration on the Camry returned to Ruben Eric GONZALEZ who was the driver of the Lexus. All subjects and vehicle were transported to the Rio Grande City Border Patrol Station.

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         Ruben Eric Gonzalez**

**CONTINUATION:**

**PRINCIPAL STATEMENTS:**

Rigoberto MERCADO, Ruben Eric GONZALEZ and Anthony Edward BARRIENTES were advised of their rights, understood his rights and were willing to give a sworn statement without the presence of a lawyer.

**PRINCIPAL STATEMENT: Anthony Edward BARRIENTES**

Anthony Edward BARRIENTES stated he picked up MERCADO in his Dodge Nitro during the morning at his sister's apartment. GONZALEZ also met them there in his white Lexus sedan. BARRIENTES stated he had just met GONZALEZ that morning. BARRIENTES stated his sister called and asked if her boyfriend (MERCADO) could borrow the car to go pick up some stuff. Subject did not trust lending MERCADO the vehicle and told them he would ride along to make sure nothing bad happened to his vehicle. BARRIENTES stated he drove with MERCADO to Roma, Texas and was followed by Ruben Eric GONZALEZ a white Lexus. After arriving in Roma, Texas, MERCADO told BARRIENTES to wait in the Lexus with GONZALEZ so he could go pick up some stuff. While waiting in the car with GONZALEZ, MERCADO called and stated that picked up illegal aliens. Anthony Edward BARRIENTES then told MERCADO to get them out of his car. MERCADO then called him shortly later stating he was lost and would send him his location. The location provided was at the Burger King restaurant where MERCADO was waiting with five illegal subjects in his Dodge Nitro. BARRIENTES told MERCADO to him to follow them. BARRIENTES stated they were going to find a safe place to drop off the illegal aliens but could not find anywhere to drop off the illegal aliens. BARRIENTES identified MERCADO as his sister's boyfriend and the driver of the Dodge Nitro transporting 5 illegal aliens through a photo lineup. BARRIENTES identified GONZALEZ as the driver of the white Lexus through a photo lineup.

**PRINCIPAL STATEMENT: Rigoberto MERCADO**

Rigoberto MERCADO states he came to the Valley with his girlfriend's brother Anthony. MERCADO told agents Anthony had asked him to come to the valley "Just to drink and have a good time". MERCADO stated he arrived to the Valley and arrived at a Dollar Store. At the Dollar Store Anthony told him (MERCADO) to pick up the people and drive to Burger King. MERCADO stated that he agreed to pick them up and that Anthony had offered to pay his light bill which was \$168 Dollars. MERCADO stated that he knew it was illegal to transport undocumented aliens. MERCADO told agents he was driving a blue Nitro and was told to follow Anthony. MERCADO stated that Anthony's friend was driving a white car and further stated that he had never met nor did not know him. MERCADO stated that he had communication with Anthony when he had gotten lost. MERCADO stated that when he saw police behind him he told them not to run. MERCADO was then able to identify Anthony Edward Barrientes and Ruben Eric Gonzalez through in a photo lineups.

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**CONTINUATION:**

**PRINCIPAL STATEMENT: Ruben Eric GONZALEZ**

Ruben Eric GONZALEZ told agents he was in Roma, Texas to be the lead vehicle for a load of illegal aliens. Gonzalez stated he was to be paid one thousand to be lead vehicle was going to lead them south of a Border Patrol checkpoint on FM 6 and could not recall the rest of the road's name. Subject requested that all questioning stop and no further questions were asked.

**MATERIAL WITNESS STATEMENTS:**

Humberto De Jesus ASCENCIO-Martinez, Walter Osbaldo SANDOVAL-Deleon and Mervin Jacinto Calderon were advised of their rights, understood his rights and were willing to give a sworn statement without the presence of a lawyer.

**MATERIAL WITNESS STATEMENT: Humberto De Jesus ASCENCIO-Martinez**

Humberto De Jesus ASCENCIO-Martinez, a citizen and national of Guatemala, told agents he was charged \$5,000 to be smuggled into the United States. He told agents he was picked up in a dark four door vehicle and taken to the Burger King restaurant to wait for further instruction. ASCENCIO was able to identify MERCADO in a six individual line up as the driver who took him and four other subjects to Burger King in the Dodge Nitro.

**MATERIAL WITNESS STATEMENT: Walter Osbaldo Sandoval-Deleon**

Walter Osbaldo Sandoval-Deleon, a citizen and national of Guatemala, stated he was to pay \$4,500 to be smuggled into the United States. Sandoval stated that he was picked up by an unknown man in a white vehicle. Sandoval told agent the group drove for approximately 5 minutes before meeting with a second vehicle. Sandoval claims that the second vehicle was driven by a man he identified as Rigoberto Mercado through a photo lineup. Sandoval claims that the Mercado was lost. He stated that he stopped at Burger king and that he left them in the vehicle while he bought food. He claims that after Mercado returned they drove around for a while in circles until they were finally pulled over by the police.

**MATERIAL WITNESS STATEMENT: Mervin Jacinto Calderon**

Mervin Jacinto Calderon, a citizen and national of Guatemala, stated he was to pay \$8,000 to be smuggled into the United States. When subject crossed, he stated that there were a total of five in the group and they had walked for over an hour before walking to a house. Calderon stated they stayed at house until a small four door closed car either gold or brown picked them up. Subject stated the driver took them to a gas station where they sold food and they waited for approximately five minutes until someone called the driver on the phone and they left. Subject stated that they left to another store and parked when the driver said "shit" and went into the store. Subject stated that he was then arrested by Border Patrol.